<u>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</u>



Applicant:

Xuzhi Qin

Examiner:

Philip C. Tucker

Serial No.

10/038,350

Group Art Unit:

1712

Filed:

November 20, 2001

Docket No.

589.117US1

Title:

PHOTOCHROMIC NAPHTHOPYRAN COMPOUNDS: COMPOSITIONS AND

ARTICLES CONTAINING THOSE NAPHTHOPYRAN COMPOUNDS

MAIL STOP PETITION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

Dear Sir/Madam:

FACTUAL BACKGROUND

- 1) An Office Action for the above-identified patent application was mailed by the U.S. Patent and Trademark Office on January 29, 2002, with a due date for a response identified on the Office Action as 1 month from the mailing date, or February 28, 2002 (copy enclosed).
- 2) On October 2, 2002, Examiner Lilling called Mark A. Litman & Associates, P.A. to inquire as to a lack of response to the Office Action, and to notify that failure to respond will result in abandonment of the case.
- 3) Upon investigation, it was discovered that the docket date was listed correctly in the attorney's docketing calendar but it was unintentionally removed without work being done on the case.
- 4) As the documents included with this Petition clearly shows that all formalities for this Application were timely performed by Attorney for Applicants and timely received by the U.S. Patent and Trademark Office, the Abandonment of this Application is clearly in error, was inadvertent and/or unintentional, and should be accepted at this time.

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- 5) Applicants, through their counsel, petitioned to have the abandoned application revived under 37 CFR 1.137(b) in a Petition filed 27 September 2004, but that Petition was refused in a Notice mailed 10 November 2004, which allowed further response to 10 January 2005. The Petition was dismissed because an amendment had not been filed that that automatically placed the application in condition for allowance, a Notice of Appeal had not been filed and/or a request for consideration under the Rules had not been filed.
- 6) The present Petition files an Amendment that is accompanied by an Amendment that clearly places the Application in condition for allowance, a Petition for Extension of time, insofar as that is needed, and alternatively, a request for Continued Examination. Petition to
- 7) Applicants, through their Attorney of Record, hereby petition to have the Application re-opened, and to have the Abandonment withdrawn.
- 8) The fee required for a petition to revive an unintentionally abandoned application under 1.17(m), the amount set forth of \$1,330.00, is hereby authorized to be withdrawn from Attorney's Deposit Account No. 50-1391, as is any fee for any Extension of Time or the Request for Continued Examination..

The other required reply in this Application under the guidelines of 37 C.F.R. 1.37(b) constituted only the cancellation of the two rejected claims, which is respectfully submitted at this time. Nothing further was requested and each of the required steps prior to the Office Action was timely done as shown by the enclosed documents. As the Response to the Restriction Requirement has now been submitted, the Application should be re-opened.

Applicants hereby petition to revive the application due to the fact that the delay in filing the response to the Office Action causing by the abandonment of the application was unintentional and/or inadvertent, and was the sole responsibility of the U.S. Patent and Trademark Office.

· The contact person is invited to telephone Applicant's attorney (952) 832-9090 if

necessary. If necessary please charge any additional fees to Deposit Account No. 50-1391 for the petition for revive unintentional abandonment under 37 CFR 1.137(b).

Respectfully submitted,

Xuzhi Qin

By His Representatives,

Mark A. Litman & Associates, P.A. York Business Center, Suite 205 3209 West 76th Street Edina, MN 55435 (952) 832-9090,

Date: 28 December 2004

Reg. No. 26,390 (952) 932-9090

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 28 December 2004

Mark A. Litman

Name

Signature



FINAL OFFICE ACTION

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/038,350	10/038,350 11/20/2001 Xuzhi Qin		589.117US1	7050	
7590 01/15/2004			EXAMINER		
Mark A. Litman & Associates, P.A. York Business Center, Suite 205 3209 West 76th St.		TUCKER, PHILIP C			
		ART UNIT PAPER N			
Edina, MN 55435			1712		

DATE MAILED: 01/15/2004

Due April 15 2004/

Please find below and/or attached an Office communication concerning this application or proceeding.

10/038,350 CIN, XUZH Examiner		Ann	olication No.	Applicant(s)	
Examiner Philip C Tucker 1712 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address and of the provision of the provis	JAN 0 3 2005 2	''			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address riod for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply septed above is less than thirty (30) days, a reply be timely filed advantages on time may be available under the provisions of 31 CRI. 138(a). In no event, however, may a reply be timely filed advantages to improve the provisions of 31 CRI. 138(a). In no event, however, may a reply be timely filed advantages to improve the state and the provisions of 31 CRI. 138(a). In no event, however, may a reply be timely filed the provision of the state of the state of the provision of the state of the communication. If the period for reply specified soon, he maximum statutory period vall again and we state (3) (A) (A) (A) (C) (A) (A) (A) (A) (A) (A) (A) (A) (A) (A	Off Action Summary				
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a risply be timely filled Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a risply be timely filled Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a risply be timely filled Extensions of time may be available under the maining date of the statutory minimum of thiny (20) days will be considered bringly. Iff NO period for risply is specified above, the mainimum statutory period will apply and will applies 30 (b) NOTHTS from the maining date of this communication. Failure to risply will min the act or extended period for risply will be statutory and the application. A plant to risply will min the act or extended period for risply will be statutory and the application is mon-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Sposition of Claims 4) Claim(s) 1-4 and 9-20 is/are pending in the application. 4a) Of the above claim(s) is/are enabled. Claim(s) 1-4 and 3-20 is/are pending in the application. 5D Claim(s) 1-4 and 3-19 is/are allowed. Claim(s) 1-4 and 3-19 is/are allowed. Claim(s) 1-4 and 20 is/are objected to. Claim(s) 1-4 and 20 is/are objected to. Claim(s) 1-4 and 20 is/are objected to. Claim(s) 1-4 and 20 is/are objected to restriction and/or election requirement. Pupilication Papers 9) The specification is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.24(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.124(d). The oath or declaration is objected to by the Exam	The MAILING DATE of this		·		
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Office Action Summary Part of Paper No. 15	Patent and Trademark Office OL-326 (Rev. 11-03)	Office Action Su	ımmary	Part of Paper	No. 1€

Application/Control Number: 10/038,350

Art Unit: 1712

DETAILED ACTION

Claim Objections

- 1. Claims 12 and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

 Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claim 12, when m is 2, this falls outside of the scope of the invention claimed in the parent claim 1.
- 2. Claim 12 is objected to because of the following informalities: In claim 12, the line after the formulae states "(1a), (1b), and (1c) below", whereas the formulae appear above this line. Applicant should delete the word "below" and insert "above", or move the formulae below said line in order to correct the claim. Appropriate correction is required.
- 3. Claims 1-4, 9-11 and 13-19 are allowable over the art of record.
- 4. Applicant's amendment has overcome the prior art rejections of the previous office action. Applicant has not addressed the objection to the relative position of the formulae and line below such formulae in claim 12. A new objection is presented in view of applicant"s amendment.

Art Unit: 1712

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

Philip C Tucker Primary Examiner Art Unit 1712

PCT-2936

Applicant:	Xuzhi Qin	Examiner:	Philip C. Tucker
Serial No.	10/038,350	Group Art Unit:	1712
Filed:	November 20, 2001	Docket No.	589.117US1
Title:	PHOTOCHROMIC NAPHTHO	PYRAN COMPOUND	S: COMPOSITIONS AND
	ARTICLES CONTAINING TH	OSE NAPHTHOPYRA	N COMPOUNDS
MAIL STC Commissio P.O. Box 14	ner for Patents		
	, VA 22313-1450		
<i>REVIVE A</i> 1.137(b) This is an <u>A</u>	TIVE REQUEST FOR RCE IN UNINTENTIONALLY ABA LTERNATIVE request for above-identified application.	NDONED APPLICA	ATION UNDER 37 CFR
1 Submissio	on required under 37 CFR 1.114		
a. 🔲	Previously submitted Consider the amendment(s)/reply	under 37 CFR 1.116 p	reviously filed on
ii. 🗆	Consider the arguments in the A	ppeal Brief or Reply Br	rief previously filed on
b. 🛛	Other Enclosed Amendment/ Reply iii. Affidavit(s)/Declaration(s) iv.		sure Statement (IDS) Amendment (12 pages)
1.103(c) for	Suspension of action on the above- a period of months	identified application i	s requested under 37 CFR
b.	Terminal Disclaimer (2 pages)		
a. 🔯 ′ overpaymen THE ACCO ABANDON PLACE TH i. 🔯 ii. [The Director is hereby authorized to ts, to Deposit Account Number 50-DMPANYING PETITION FOR DEPOSITED APPLICATION THAT THE APPLICATION IN CONDITION RCE Fee required under 37 CFR Extension of Time fee, the amount of the conditions of the conditio	-1391, ONLY IF THE REVIVAL OF THE UE AMENDMENT DO! ION FOR ALLOWAND 1.17(e), the amount of ant UP TP \$ 1020.00.	HE PTO DECIDES IN ININTENTIONALLY ES NOT <i>PRIMA FACIE</i> NCE.
Returr	mittal Sheet Petition under 3 n postcard AMENDMENT ACHMENT, Office Action)		16 (9 PAGES +3 PAGES

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MARK A. LITMAN & ASSOCIATES, P.A. York Business Center, Suite 205, 3209 W. 76th St. Edina, MN 55435 (952-832-9090)

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Atty: Mark A. Litman Reg. No. 26,390

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned he	reby certifies that this Transmittal Letter and the
paper, as described herein, are being deposited in the Unite sufficient postage, in an envelope addressed to: Mail Stop:	ed States Postal Service, as first class mail, with PETITION and RCE, Commissioner for Patents, PO
Box 1450, Alexandria, VA 22313-1450 on July 12, 2004.	a stada
Mark A. Litman	Wederelle
Name	Signature /

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE Examiner: Xuzhi Qin plicant: ial No. 10/038,350

Philip C. Tucker

Group Art Unit:

1712

November 20, 2001 Docket No. PHOTOCHROMIC NAPHTHOPYRAN COMPOUNDS: COMPOSITIONS

589.117US1

AND ARTICLES CONTAINING THOSE NAPHTHOPYRAN COMPOUNDS

MAIL STOP: PETITION and AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

The following documents are hereby submitted:

3rd Supplemental Amendment and Response After Final Rejection (9 pages)

Petition to Revive Under 37 CFR 1.137(b) (3 Pages)

Petition for Extension of Time (as needed)

Return Postcard

If an additional fee is required due to changes to the claims, the fee has been calculated as follows:

CLAIMS AS AMENDED	(1) Claims Remaining After Amendment		(2) Highest Number of Claims Previously Paid For	(3) Present Extra	Rate	Fee
TOTAL CLAIMS	16	-	20	0	x 18.00 =	\$00.00
INDEPENDENT CLAIMS	1	-	3	0	X 86.00 =	\$00.00
[] MULTIPLE DEPENDENT CLAIMS PRESENTED					\$00.00	
TOTAL					\$00.00	

Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers if an additional extension of time is deemed necessary by the Office. Authorization is hereby given to charge Deposit Account Number 50-1391 if such additional extension is necessary.

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP: AF, P.O. BOX 1450, Commissioner for Patents, Alexandria, VA 22313-1450 28 DECEMBER 2004

Mark A. Litman

Name

MARK A. LITMAN & ASSOCIATES, P.A.

York Business Center, Suite 205, 3209 W. 76th St.

Edina, MN 55435 (952-832-9090)

Atty: Mark A. Litman

Reg. No. 26,390